



An
Bord
Pleanála

Inspector's Report

ABP-317783-23

Development	Construction of a dwelling, connection to public services and all ancillary site works. .
Location	82 Curragh, Castlebar, Co Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	22/1163
Applicant	Brian O Reilly
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party v. Refusal
Appellant	Brian O Reilly
Observer(s)	None
Date of Site Inspection	5 th day of June 2024
Inspector	Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The appeal site is located within the south-eastern outskirts of the town of Castlebar, approximately 0.8 kilometres south of the town centre. The site has a stated area of 0.0815 hectares and forms part of the larger established housing development, The Curragh. This housing development is long established and fully inhabited.
- 1.2. The subject site fronts onto an internal roadway which in turn connects to Humbert Way, which acts as an inner relief road around the town centre.
- 1.3. The appeal site is centrally located within The Curragh residential development with other detached single storey and dormer dwellings located immediately north, west and south of the appeal site, the internal service road to the west and semi-detached two storey dwellings located east of the appeal site. Ground levels fall considerably from west (43.9m AOD) to east 38.75m AOD within the appeal site and within the properties immediately north and south of the appeal site. The predominant land use in the surrounding area is residential on the edge of the Castlebar town development boundary.

2.0 Proposed Development

- 2.1. The development would comprise the following:
 - A two-storey gable fronted detached dwelling house with a floor area of 184 square metres (sq. m.) in area, with a maximum ridge height of 8.2 metres.
 - A vehicular entrance and 2 on-site car parking spaces which provide direct access onto the existing internal estate road.
 - Connection to public sewer, public mains and surface water drain and ancillary site works.
- 2.2. Further information was submitted by the applicant in relation to the following: Copies of land registry folio maps of the appeal site and lands within the applicant's control, clarity as to the relationship between ownership of the existing house at number 82, the Curragh and the proposed dwelling unit. Details of boundary treatment. Details of finished floor levels of the structure immediately south of the proposed development

and details of a survey within the overall Curragh residential development assessing potential of sites to cater for an additional dwelling within their curtilage.

3.0 Planning Authority Decision

3.1.1. Permission was refused by the planning authority for one reason as follows:

- 1 It is considered that the proposed backland development at the rear of existing properties, both by itself and by precedent which the grant of permission would set for other relevant development would seriously injure the amenity of adjoining dwellings and depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Planning Authority Reports

3.1.2. Planning Reports

The recommendation to refuse planning permission in the Area Planner's report reflects the decision of the Planning Authority. The main points raised in the report can be summarised as follows:

- The Planning Authority were concerned that the development, if permitted, would lead to the proliferation of independent residential units to the rear or established houses within this part of the Curragh residential development,
- The development significantly reduces the extent of private amenity space associated with number 82, the Curragh and would establish an undesirable precedent for reduced site areas associated with established dwellings within the Curragh residential development,
- The private amenity space with number 82 the Curragh would be deficient.
- There is no established precedent for such proposals within the Curragh residential development.

3.1.3. Other Technical Reports

Municipal District Architect: No objections.

Water Services: No objections

3.2 Prescribed Bodies

Irish Water: No objections

3.3 Third Party Observations

3.3.1 One received: This observation received from a neighbouring resident within the Curragh residential development. The issues raised within the observation related to the following:

- The observer is not opposed to the principle of the development.
- Lack of consultation with neighbouring residents in advance of formally submitting the development proposals.
- Adverse impact upon her residential amenity by reason of overlooking
- Dwelling design is not appropriate and excessive height of structure.
- Absence of boundary treatment details. Seeking a two-metre boundary wall between her property and the appeal site, if the development is to be permitted.
- The development would constitute backland development which would not be appropriate.

4.0 Planning History

I am aware of any relevant planning history associated with the appeal site.

5.0 Policy Context

5.1. National Guidelines

5.1.1. The following planning guidance documents are relevant:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2023).
- Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2019 (latest revision)).

5.2 **Castlebar Town and Environs Local Area Plan 2023-2029**

The lands are zoned 1g-Existing Residential, where the zoning objective sets out the following: “To protect the amenity and character of existing residential areas”.

Other relevant sections of the Castlebar Town and Environs Local Area Plan include:

- Section 2.8.1-Achieving Compact Growth

The Plan also supports the delivery of new homes within existing residential areas through consolidation, infilling and densification over the plan period, where development can be assimilated satisfactorily through design, layout and amenity in a manner that does not detract from the character of the area. This will allow for efficient use of existing services, facilities and supports the existing and planned sustainable transport network as set out in the Castlebar Local Transport Plan. Residential Use Standards

- Subsection 6.3-Residential Development Strategy:

The Council seeks to promote compact growth through the re-use and re-development of vacant properties, brownfield and infill sites within the town in a sequential manner. This will be achieved by locating a high proportion of housing in the existing built-up footprint of Castlebar at appropriate densities, thereby strengthening the town centre.

- Section 6.4.2 Residential Development, Capacity and Delivery

Proposals for infill development should be sensitively designed to have regard to proximity of neighbouring buildings, the uses of proposed development and neighbouring properties, impacts on light, overshadowing, servicing, noise and general disturbance.

5.3 Mayo County Development Plan 2022-2028

Sections that are relevant to the current appeal include:

Volume 1, Section 3: Housing

Section 3.4.9 Housing in Towns and Villages

The sustainable growth of compact urban and rural settlements is a top priority of the NPF and RSES, with particular emphasis on the regeneration and repopulation of core and built-up areas. This approach focuses on maximising the use of infill, vacant and under-utilised sites and of buildings that are suitable and capable of re-use to provide housing, amenities, jobs and services.

Housing Policies and objectives:

HSP 1 To promote the provision of housing in the county, both public and private, in rural areas, small settlements and larger towns, in a manner that provides a balance and choice in terms of location, house type and tenure

Volume 2: Development Management Standards:

Section 2.12 Surface water

Section 4.5.3 Urban infill sites

Section 4.8 Private open space

Section 4.9 Boundary treatments.

Section 7.11 Building Lines

Table 7: Car parking Standards:

1 space per 4 bed dwelling plus 1 visitor space

5.4 Natural Heritage Designations

The nearest designated sites to the appeal site are:

- River Moy SAC (Site Code:002298) is located c.13.8 kilometres north-east of the appeal site.
- Lough Carra SPA (site Code:004051) is located c. 11.7 kilometres south of the appeal site.
- Croaghmoyle Mountain NHA (Site Code: 002383) is located c.8.6 kilometres north-west of the appeal site.

5.5 EIA Screening

Having regard to the nature and scale of the proposed development, comprising a single residential unit within a serviced site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1 Grounds of Appeal

A first-party appeal has been submitted to the Board by the applicant, Mr. Brian O Reilly. The grounds of appeal include the following:

Planning Decision:

- The refusal acknowledges that the dwelling meets the planning criteria in terms of design and other criteria set out within the Development Plan. The refusal is based on establishing an undesirable precedent, backland development and depreciation of house values in the vicinity of the appeal site.

Site Context:

- The appeal site is much larger than neighbouring sites, being on average two to four times the size of sites in the surrounding area and can easily accommodate the existing house and the proposed house.

- The original property owner bought two plots of land in the 1960's from the Local Authority which was originally intended to cater for two dwellings. The land registry folios support this claim.
- The existing house is positioned laterally across the site and is orientated towards the internal service road (front) and its relationship with the rear of the site is poor.
- The gradient and design of the rear amenity space results in a poor connection between number 82 and the rear garden space.
- The size of the rear amenity space makes it difficult for the average householder to manage.
- Its location to the rear of number 82 and its gradient at a lower level than number 82 and the other dwellings fronting onto the Curragh internal service road would create a sheltered and private space for the development of a dwelling. The proposed dwelling would be separated from number 82 by cut and fill landscaping, thus providing an attractive landscaped area for both properties as well as increased privacy.
- The appeal site has unique characteristics in terms of site size, orientation, accessibility and proximity to services.
- Most of the surrounding plots of land are too small to cater for an additional dwelling within their curtilage. Therefore, a precedent could not be established within those smaller plots. When a site is large enough, it should be evaluated on its planning merits.
- This stretch within the Curragh residential development has irregular plot sizes and provides for a variety of house types.
- The location is suitable for the development of a family home in a time of well publicised housing shortage.

Design and Layout:

- The proposals would provide for a more accessible and functional rear garden, albeit a smaller rear garden space.

- There is a large space located to the side (south) of the house that lends itself to providing a natural access to the rear of the site between numbers 82 and 81, the Curragh.
- The rear garden is overgrown and has never been used as a rear garden space.
- The proposals have been carefully designed following consultation with the planners and neighbours based on its particular characteristics and context.
- The house would provide for a quality and sustainable family home.
- The architecturally designed, passive sustainable house on a well landscaped site would provide a good example of how a backland site should be developed.

Planning Precedent:

- A development was recently permitted backing onto this site in a smaller plot of land and has been constructed. The current proposals would provide for an occupied boundary to that development and not an abandoned, undeveloped piece of land which could be subject to anti-social behaviour.

6.2 Planning Authority Response

None received.

6.3 Observations

None received.

7.0 Assessment

- 7.1 I consider that the main issues in this appeal relate to the issues raised within the refusal reason set out by the Planning Authority and the response to the issues raised within the first party appeal. I am satisfied that other issues in relation to access, car parking and boundary treatment were deemed to have been satisfactorily addressed by the applicants and the Planning Authority did not raise

issue with these matters within its decision. The following are considered to be the pertinent issues within the planning assessment:

- Principle of Development
- Public Open Space and Residential Amenity
- Design and Layout
- Appropriate Assessment

7.2 Principle of Development

7.2.1 The subject site is located within the Castlebar settlement boundary and is zoned Existing Residential development, as defined in the Castlebar Town and Environs Local Area Plan 2023-2029, herein after referred to as CTELAP. The zoning objective is ““To protect the amenity and character of existing residential areas”. The applicant is seeking to construct an additional dwelling house within the plot of number 82, the Curragh, an established residential development located south of the town centre on lands that are fully serviced. Residential development is permissible in principle on the site under the current zoning. Other considerations also have to be taken into account, in particular, whether the precedent would be a desirable one and would neighbouring residential amenities be adversely impacted upon. The proposals need to be assessed against the policies and objectives within the CTELAP and the Mayo County Development Plan and whether the design and layout as presented accords with the development management criteria as set out within the Development Plan. These issues are examined in greater detail in the sections below.

7.2.2 Section 2.8.1 of the CTELAP promotes the concept of Compact Growth which references the delivery of new homes within existing residential areas through consolidation, infilling and densification... where the development can be assimilated satisfactorily through design, layout and amenity in a manner that does not detract from the character of the area. Section 6.3 of the LAP refers to a Residential Development Strategy that seeks to promote compact growth through the re-use and

re-development of vacant properties, brownfield and infill sites within the town in a sequential manner.

7.2.3 Section 3 of the County Development Plan pertains to Housing and Section 3.4.9 focusses on: Maximising the use of infill, vacant and under-utilised sites that are suitable and capable of re-use to provide housing.

7.2.4 In Conclusion, I consider that the current proposals could in principle provide an appropriate re-purposing of this large suburban site which is presently not being fully utilised. I consider that the current proposal would provide for a sustainable form of development on zoned serviced lands subject to the design and layout meeting the Development Management standards and that neighbouring residential amenities are not adversely impacted upon. These matters will be addressed below,

7.3 Design and Layout

7.3.1 The first part of the reason for refusal set out by the Planning Authority specifically sets out that the proposals would seriously injure the amenity of adjoining dwellings by virtue of its backland location and the precedent that it would establish. No reference is made to any specific policy or objective that would be contravened by the proposals, I refer to the provisions of both the CTCLAP and the MCDP and there is no policy nor objective prohibiting the development of backland development. Having regard to the policy context provided, both within the Castlebar LAP and the Development Plan, referenced in sections 7.2.2 and 7.2.3 above, I consider that the current proposal should be considered on its planning merits and against the development management standards set out within the Development Plan.

7.3.2 The current proposal provides for a detached dwelling with a stated floor area of circa.184 sq. m and comprises four bedrooms. with an overall ridge height of 8.4 metres. The dwelling is orientated in a north-south direction, with a single storey wrap around element on the southern and eastern elevations. The design of the front façade of the dwelling is gable fronted, incorporating a wraparound single storey element along the southern and eastern elevations. The external finishes are stated to comprise a smooth plaster finish, metal and timber cladding and fenestration

detailing with a strong vertical emphasis. I consider the design to be suitable within this suburban context and note that the Curragh residential development provides for a broad range of house types, ranging from single storey dwellings to dormer dwellings and conventional two storey dwellings further to the east of the appeal site.

- 7.3.3 The site levels within the site fall from a westerly point of 43.79 metres AOD along the internal service road within the Curragh residential development and fall to 38.75 metres AOD at the point of the proposed dwelling, a drop of approximately five metres. I note that the finished floor levels of the neighbouring dwellings within numbers 80-82 Curragh are stated to be between 43.8 metres AOD and 44.4 metres AOD. I am satisfied that by virtue of the site levels, that this results in less opportunity for overlooking of neighbouring private amenity spaces. The proposed dwelling would be located to the rear of the established building line within the Curragh residential development. However, I note that the appeal site is part of a much larger plot than most of the neighbouring plots within the residential development. Therefore, it would not be physically possible to develop a dwelling within the majority of the neighbouring plots. The applicant has stated that the original property owner bought a double plot of land, which means that there is a generous gap to the south of number 82 which would provide for a vehicular access to the appeal site. The dwelling house is to be angled, with the front elevation facing slightly to the north-east, thus allowing it to follow the curve of the internal estate road and in my opinion integrate into the estate in a more subtle manner.
- 7.3.4 in addition, a separation distance of 12.2 metres is proposed between the western (side) elevation of the proposed dwelling and the rear building line of number 82, The Curragh, a 7.1 metres separation distance from the northern site boundary and a 14.5 metre separation from the southern site boundary and a 5.9 metre separation from the eastern site boundary. I am satisfied that these separation distances, affording sufficient distance to respect the residential amenity of neighbouring properties.
- 7.3.5 In terms of private amenity space, the existing property at number 82 with a rear amenity space of approximately 150 square metres, in addition to the amenity space provided within its front garden area. The private open space provision for the appeal

site is largely to the front (south) and sides (east and west) of the dwelling house and an area of approximately 350 sq. m has been provided which exceeds the requirements of Section 4.8 of Volume 2 of the Mayo County Development Plan 2022-2028,

7.3.6 Section 7.11 of Vol 2 of the County Plan pertains to building lines where the following is set out: In certain instances, adhering to an existing building line may not be appropriate for reasons such as regeneration, future road improvements or enhanced local amenity. A flexible approach will be taken in these cases and such proposals will be considered on individual merit and design.

7.3.7 In conclusion, I am satisfied that the development approach taken, including the private amenity space and housing layout, the landscaping proposals for the appeal site and with number 82, the Curragh, that the proposed dwelling would be in keeping with the character and pattern of development in the immediate area and would be appropriate having regard to the pattern of the surrounding urban zoned and serviced form of the Curragh residential development.

7.4 Residential Amenity

7.4.1 The second part of the refusal reason references seriously injuring the residential amenity of adjoining dwellings and depreciation of value of property in the vicinity. In terms of adversely impacting the amenity of adjoining dwellings, this has not been addressed in specific details within the planning report. However, impact on adjoining residential amenity could arise by reason of overlooking or over shadowing. I refer to the design of the dwelling and there are no first-floor windows proposed on the side (western elevation). There is one first floor window on the northern elevation, that to serve an ensuite bathroom.

7.4.2 I note the observation received by the Planning Authority raised the issue of overlooking. I consider that this matter could be addressed by means of an appropriate planning condition, whereby opaque glazing could be conditioned to be included within this particular window ope. There are two-bedroom windows, serving bedrooms 2 and 3 on the southern elevation and one serving bedroom 4 on the

eastern elevation. I am satisfied that the design of the dwelling, including the separation distances referenced in Section 7.3.3 above address this matter. Similarly, I am also satisfied that the amenities of neighbouring dwellings would not be adversely impacted by reason of overshadowing, again due to the generous separation distances between the proposed dwelling and the site boundaries and also due to the orientation of the dwelling. is adequately respected within the design proposals. Therefore, I am satisfied that the design and layout as proposed has adequately considered the residential amenities of neighbouring dwellings. I am satisfied that this part of the reason for refusal should not be upheld.

7.4.3 I note the issue raised in the refusal reason set out by the Planning Authority in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

7.4.4 Therefore, in conclusion, given the generous allocation of private open space to number 82, the Curragh and to the appeal site and the generous separation distances from the site boundaries in addition open space intended to serve the estate, I am satisfied that the proposed development would not seriously injure the residential amenities of the area nor result in a depreciation of neighbouring properties would represent a standard of development that would be in compliance with the development management standards as set out within Volume 2, Section 3 of the current Mayo County Development Plan 2022-2028 in relation to urban residential development. .

7.5 Appropriate Assessment

7.5.1 I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 11.7 kilometres north of the nearest European sites, namely Lough Carra Special Protection Area (SPA) (site code 004051) and the River Moy Special Area of Conservation (SAC) (site code 002298) is located approximately 13.8 kilometres north-east of the appeal site. The development description was set out

with Section 2 of the report above. No nature conservation concerns were raised in the planning appeal.

7.5.2 Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows [insert as relevant:

- The modest scale of the works proposed.
- The separation distance from the nearest European site and the lack of hydrological or ecological connectivity to any Natura 2000 site.
- Taking into account screening determination prepared by the Planning Authority.

7.5.3 I conclude, that on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and, therefore, Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000(as amended) is not required.

8.0 Recommendation

I recommend that planning permission be granted subject to conditions.

9.0 Reasons and Considerations

9.1 Having regard to the provisions of the Mayo County Development Plan 2022-2028 and the Castlebar Town and Environs Local Area Plan 2023-2029, the existing residential zoning objectives for the site, the availability of access to the piped water services, the nature and scale of the proposed development and the existing pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would respect the character of existing development in the area and would not injure the residential amenities of the area, would provide a suitable level of amenity for future occupants and not depreciate the value of property in the vicinity. The proposed development would,

therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 22nd day of December 2022, as amended by the further plans and particulars received by the Planning Authority on the 28th day of June 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The materials, colours and textures of all the external finishes to the proposed house shall be submitted to and agreed in writing with the planning authority before the commencement of development.

Reason: In the interest of the visual and residential amenities of the area.

3. Details of the boundary walls to surround the dwelling and vehicular entrance/car parking shall be submitted to and agreed in writing with the planning authority before the commencement of development.

Reason: In the interest of the visual and residential amenities of the area.

4. (a) Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.
(b) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these

times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

6. The site development works, and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

- 8 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which were submitted to, the planning authority on the 28th day of June 2023.

All planting shall be adequately protected from damage until established. Any

plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

- 9 Opaque glazing shall be inserted within the first floor ensuite window opening on the northern elevation.

Reason: In the interest of residential amenity.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Fergal Ó Bric
Planning Inspectorate

23rd day of August 2024